

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PERCY LEE RHODES,

Plaintiff,

v.

JOSEPH RUIZ, et al.,

Defendants.

Case No. 1:21-cv-00942-CDB (PC)

**FINDINGS AND RECOMMENDATIONS TO
DISMISS CLAIMS AND DEFENDANTS**

Clerk of the Court to Assign District Judge

14-DAY OBJECTION PERIOD

Plaintiff Percy Lee Rhodes is a former pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On December 6, 2022, the Court screened Plaintiff's complaint and found that it states cognizable claims of deliberate indifference to serious medical needs against Defendants Ruiz, Lightner and McComas, as well as an access to courts claim against Defendant Cortez. (Doc. 9.) The Court further found that Plaintiff failed to state any other cognizable claim against any other named Defendant. (*Id.*) The Court therefore directed Plaintiff to file a first amended complaint curing the deficiencies in his pleading or to notify the Court that he wishes to proceed only on the claims found cognizable. (*Id.* at 22-23.)

On December 23, 2022, Plaintiff filed a notice stating that "he is willing to proceed only on his claims for deliberate indifference to serious medical needs against defendants Ruiz, Lightner and McComas, and the denial of access to the courts against Cortez." (Doc. 10.)

Accordingly, and for the reasons set forth in the Court's screening order (Doc. 9), the Court RECOMMENDS that:

1. Defendants Blair, Curran, W. Freitas, A. Huron, M. Padilla, and B. Ward be DISMISSED; and,
2. The claims in Plaintiff's complaint be DISMISSED, *except* for its deliberate indifference to serious medical needs claims against Defendants Ruiz, Lightner and McComas, and the access to courts claim against Defendant Cortez, pursuant to 42 U.S.C. § 1983;
3. The Clerk of the Court is directed to randomly assign a district judge to this action.

These Findings and Recommendations will be submitted to the United States District Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned, "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may result in waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: January 4, 2023


UNITED STATES MAGISTRATE JUDGE